

ESTTA Tracking number: **ESTTA321305**

Filing date: **12/10/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191735
Party	Defendant Cheney, Kenneth Michael
Correspondence Address	KENNETH MICHAEL CHENEY Applicant 1830 Hollyview Drive San Ramon, CA 94582 UNITED STATES michael@verumsports.com
Submission	Answer
Filer's Name	Kenneth Michael Cheney
Filer's e-mail	michael@verumsports.com, kmcheney@hotmail.com
Signature	/Kenneth Michael Cheney/
Date	12/10/2009
Attachments	ANSWER CHENEY[1].pdf (7 pages)(32632 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No 77/117258

Published: June 30, 2009

Mark:



Abercrombie & Fitch Trading Co.,

Opposer,

vs.

Kenneth Michael Cheney

Applicant.

Opposition No. 91191735

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO NOTICE OF OPPOSITION

COMES NOW the Applicant, Kenneth Michael Cheney, to Answer the Notice of Opposition in this matter. All allegations not specifically admitted herein are denied.

Answering the Preamble on page 1 of the Notice of Opposition, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning Opposer's organization, location, and/or belief that it will be damaged by the registration of Application Serial No 77/117258, and therefore denies same. Applicant admits that on February 27, 2007, Applicant filed Application Serial

No 77/117258 for clothing, sports clothing, apparel and outerwear, namely, t-shirts, shirts, golf shirts, tops, bottoms, shorts, sweat pants, athletic uniforms; outer jackets; sports uniforms; hats; caps; headwear (as amended). Applicant also states that his current address is 1830 Hollyview Drive in San Ramon, CA 94582.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition and, therefore, denies same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition and, therefore, denies same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice of Opposition and, therefore, denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition and, therefore, denies same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice of Opposition and, therefore, denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Notice of Opposition and, therefore, denies same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice of Opposition and, therefore, denies same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Notice of Opposition and, therefore, denies same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Notice of Opposition and, therefore, denies same.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Notice of Opposition and, therefore, denies same.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Notice of Opposition and, therefore, denies same.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies same.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies same.

15. To the extent that Paragraph 15 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Notice of Opposition and, therefore, denies same.

16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Notice of Opposition and, therefore, denies same.

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Notice of Opposition and, therefore, denies same.

18. To the extent that Paragraph 18 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Notice of Opposition and, therefore, denies same.

19. To the extent that Paragraph 19 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Notice of Opposition and, therefore, denies same.

20. To the extent that Paragraph 20 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Notice of Opposition and, therefore, denies same.

21. To the extent that Paragraph 21 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Notice of Opposition and, therefore, denies same.

Answering the WHEREFORE clause on page 5, Applicant denies that the requested relief should be granted. Applicant is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in the WHEREFORE clause of the Notice of Opposition and, therefore, denies same.

ANSWER TO ALL ALLEGATIONS

Applicant denies each and every allegation in the Notice of Opposition except as specifically admitted in the answer.

AFFIRMATIVE DEFENSES

Applicant sets forth its affirmative defenses below. By setting forth these affirmative defenses, Applicant does not assume the burden of proving any fact, issue or element of a cause of action where such burden properly belongs to Opposer. Moreover, nothing stated herein is intended or shall be construed as an acknowledgement that any particular issue or subject matter is relevant to Opposer's allegations.

1. Applicant's mark and Opposer's marks are not confusingly similar.
2. Opposer has not suffered nor is likely to suffer any injury or harm to its business or property by reason of registration of Applicant's mark in connection with the goods listed in the application.

3. Applicant hereby gives notice that it intends to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserves the right to amend its answer to assert such additional affirmative defenses.

PRAYER FOR RELIEF

WHEREFORE, Applicant respectfully requests that the opposition be denied and that Applicant's application, Serial No. 77/117258 be approved for registration forthwith.

It is believed that no fee is required for filing this paper.

Please direct all correspondence to:

Kenneth Michael Cheney
1830 Hollyview Drive
San Ramon, CA 94582

Respectfully submitted,

Kenneth Michael Cheney

December 10, 2009
Date

____Kenneth Michael Cheney (signed)____
Kenneth Michael Cheney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER TO THE NOTICE OF OPPOSITION was served, via first-class mail, postage prepaid to:

Kelly R. McCarty
Howrey LLP
2941 Fairview Park Drive, Suites 200 and 300
FALLS CHURCH, VA 22042
UNITED STATES

this ____10____ day of December 2009.

____Kenneth Michael Cheney (signed)____
Kenneth Michael Cheney